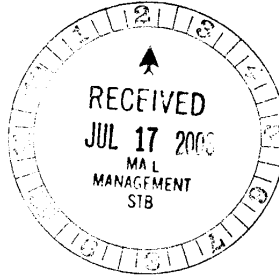


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July 17, 2003

BY HAND-DELIVERY

Honorable Vernon Williams  
Secretary  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423-0001

208422

Re: Docket No. AB-167 (Sub No. 1094)A  
Chelsea Property Owners -- Abandonment  
-- Portion of the Consolidated Rail  
Corporation's West 30th Street  
Secondary Track in New York, NY

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of "Statement of Consolidated Rail Corporation in Connection with Public Hearing on July 24, 2003." Please date-stamp the extra copy that is enclosed and return it to our representative.

Sincerely yours,

Robert M. Jenkins III

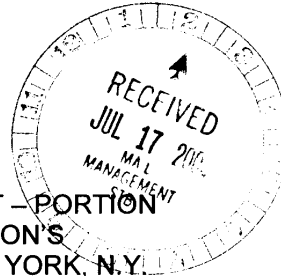
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Enclosures

BEFORE THE  
SURFACE TRANSPORTATION BOARD

DOCKET NO. AB-167 (SUB-NO. 1094)A

CHELSEA PROPERTY OWNERS – ABANDONMENT – PORTION  
OF THE CONSOLIDATED RAIL CORPORATION'S  
WEST 30<sup>TH</sup> STREET SECONDARY TRACK IN NEW YORK, N.Y.



STATEMENT OF  
CONSOLIDATED RAIL CORPORATION  
IN CONNECTION WITH PUBLIC  
HEARING ON JULY 24, 2003

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Record

Conrail appreciates the opportunity to appear at this hearing and express its views. As evidenced by the many parties represented at the hearing, the disposition of the Highline is a matter of public as well as private interest, and Conrail for years has been involved in negotiations with a wide variety of parties about how best to move this case along. Last summer, it appeared that most of the parties had arrived at an agreement that would finally resolve the matter. But since then some of the public and private interests represented here have become mired in debate about other alternatives, and the case has dragged on for another year.

Conrail does not wish to take sides in this debate, but it does desire to see the matter moved along as expeditiously as possible. Conrail and CSX have spent millions of dollars in maintenance costs and attorneys fees while the case has been in limbo. The Board has three pending petitions before it that have been fully briefed and are ripe for decision. We urge the Board to decide the issues posed by those petitions as soon as reasonably possible.

This case has an extraordinarily long history:

- In 1992, after several years of litigation, the Interstate Commerce Commission issued a decision granting the request of Chelsea Property Owners for an "adverse abandonment" certificate regarding the Highline, on the condition that CPO indemnify Conrail for any costs arising from the demolition of the Highline exceeding \$7 million. The ICC's decision was upheld on appeal.
- On February 3, 1999, contending that it had obtained a surety bond that met the indemnification requirements of the ICC's 1992 decision, CPO petitioned the Board to issue an abandonment certificate for the Highline. Conrail and CSX opposed CPO's petition on the ground that the proffered bond did not provide Conrail with the full protection against liability required by the 1992 decision. The Board agreed that CPO's bond was inadequate and denied CPO's petition. CPO did not appeal that decision.
- Subsequently, Conrail, CSX, CPO, the City of New York, the New York Economic Development Corporation, the Metropolitan Transportation Authority of the State of New York ("MTA"), the New York Convention Center Development Corporation ("Javits Center"), and other public and private entities entered into lengthy discussions aimed at reaching an agreement that would provide Conrail the protection to which it was entitled under both the ICC's 1992 decision and the STB's 1999 decision. By mid-2002, the parties had hammered out a form of agreement that they believed would meet the surety condition if it were implemented as written.

At this propitious point, when it appeared that a resolution of the case was finally in sight, more delay ensued:

- On August 14, 2002, CPO filed a petition for declaratory order with the Board, which Conrail and CSX supported, seeking a determination that the form of the agreement that was being proposed would meet the surety condition. The Friends of the High Line ("FHL") opposed that petition on the grounds, among others, that it was "premature" and did not provide Conrail enough protection against environmental claims.
- On August 16, 2002, FHL filed a petition to reopen the ICC's 1992 decision on environmental and historic preservation grounds. CPO opposed FHL's petition; subsequently, the MTA and the Javits Center also opposed FHL's petition.

- On December 17, 2002, the City of New York filed a petition to late file a request for issuance of a certificate of interim trail use. CPO opposed the City's petition, and the MTA and the Javits Center also raised concerns about its feasibility.

All three of the petitions that are pending before the Board have been fully briefed. Conrail neither supports nor opposes the petitions filed by FHL and the City, but it urges the Board to decide all three petitions as soon as it reasonably can. As discussed in the replies filed by Conrail and CSX on January 13, 2003, to the City's petition, Conrail seeks only to ensure that the broad indemnity requirements of the ICC's 1992 decision and the Board's 1999 decision are met, and Conrail's liability is properly limited. To that end, we stand ready to work with all responsible parties to finally bring this case to a close.<sup>1</sup>

Respectfully submitted,



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Attorneys for Consolidated Rail Corporation

Dated: July 17, 2003

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<sup>1</sup> We are authorized to say that CSX Corporation and CSX Transportation, Inc. join in the views expressed above.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Statement of Consolidated Rail Corporation in Connection with Public Hearing on July 24, 2003 have been served this 17th day of July 2003, by hand-delivery or first-class mail, postage prepaid upon the following persons.

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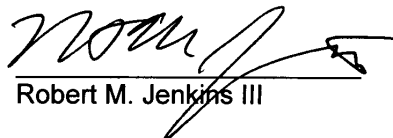
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